

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

MARVIN McALLISTER and	§	
SANDRA M. McALLISTER	§	
	§	
V.	§	CASE NO. 4:10-CV-504
	§	Judge Schneider/ Judge Mazzant
BAC HOME LOANS SERVICING, LP	§	

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On April 28, 2011, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendant's Motion to Dismiss Plaintiffs' Second Amended Complaint (Dkt. #17) should be granted in part and denied in part..

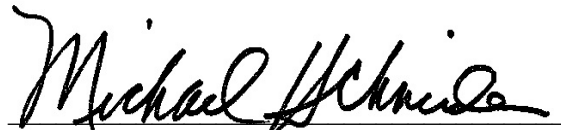
The Court, having made a *de novo* review of the objections raised by Plaintiffs, as well as Defendant's response in opposition to Plaintiffs' objections, is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this Court.

It is, therefore, **ORDERED** that Defendant's Motion to Dismiss Plaintiffs' Second Amended Complaint (Dkt. #17) is **GRANTED** in part and **DENIED** in part.

The following causes of action are dismissed: (1) Texas Debt Collection Act Claim; (2) Negligent Misrepresentation; and (3) Gross Negligence; (4) any Texas Property Code claims; and (5) RESPA claims.

It is SO ORDERED.

SIGNED this 5th day of June, 2011.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE